

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4 and 2013 Iowa Acts, Senate File 446, section 12, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

These amendments change the reimbursement method for case management services under the Medicaid state plan, habilitation, and home- and community-based services for individuals with a brain injury and for the elderly.

Case management is currently cost-based reimbursed. Since FY 2012 and annualized for FY 2013, the reimbursement has increased by 15.8 percent. Due to the requirement in legislation for cost containment strategies, the Department is limiting the administrative costs to 23 percent of direct service costs for FY 2014. During FY 2014, the Department will work with stakeholders to determine the rate methodology for FY 2015.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0839C** on July 24, 2013. The amendments were also Adopted and Filed Emergency and published as **ARC 0840C** on the same date and became effective July 1, 2013.

The Department received comments from four respondents regarding these amendments.

Comment 1: The first respondent presented four concerns about the amendments:

1. There is a need for clarity on how the 15.8 percent increase in targeted case management (TCM) costs was determined. This will be helpful in guiding providers toward the areas on which to focus.
2. Cost settlement for FY 2012 has not yet occurred. Case management programs have submitted FY 2012 actual cost reports, but no action has been taken by IME.
3. The timing in which case management programs have been notified about this significant change. Most programs had already submitted FY 2014 projected cost reports prior to the notification of the methodology change. These reports were due June 1, 2013, so budgeted revenues and expenditures have already been established.
4. The need for a long-term solution versus a band-aid approach.

Department response: The Department's responses to those four concerns are as follows:

1. Initially, the Iowa Medicaid Enterprise (IME) calculated the increase in reimbursement upon the increase in provider rates over the last several years, which resulted in the 15.8 percent increase. Due to feedback from the provider community, the IME then settled upon using the "per member per month" (PMPM) calculation. The 15.8 percent increase used the PMPM for each member for case management and targeted case management as an aggregate and was not based on individual provider information. The calculation determined the increase for FY 2010 was 10 percent and the increase for FY 2013 was 14 percent (through May 2013).

2. During this summer, the IME Provider Cost Audit and Rate Setting Unit has been finalizing the outstanding 2012 cost reports. In accordance with DHS rules, the IME has 12 months from the submission date of the 2012 reports to settle those reports. At this time, the IME is focusing on the 2013 projected cost reports. The projected cost reports must be finalized in order to create a payment rate for services provided on and after July 1, 2013; without this rate, there would be no payment or an incorrect payment made to TCM organizations.

3. The Department understands the issues related to the short time span from announcement of the implementation strategy to the implementation date. The timing of the notification to trading partners was driven by the date the legislation was signed, which was in June. Until such time as legislation is signed, the Department can begin to devise implementation strategies but cannot communicate that information. The IME allowed all case management agencies to submit amended projected FY 2014 cost reports once the implementation strategy was finalized. The Department has given priority to these cost reports.

4. In compliance with 2013 Iowa Acts, Senate File 446, the Iowa Medicaid Enterprise and the Mental Health and Disability Services Division has established a workgroup with case management providers to meet during the Fall of 2013 to develop future rate methodologies that will include concepts such as administrative cost limits, overall rate maximums, and productivity standards. The workgroup will meet three times in September and October; a finalized plan for reimbursement methodology is anticipated during the final meeting.

Comment 2: The second respondent provided the following comments: The amendments require the targeted case management agency to revert back to finalized cost-settled rates from 2012 with an inflation factor adjustment of 4.7 percent for FY 2014 rates. The amendments also will not allow rates to be cost-settled.

Targeted case management agencies, which serve individuals with intellectual disabilities and chronic mental illness, became aware of the Adopted and Filed Emergency amendments and the July 1, 2013, implementation date via a statewide telephone call on June 6, 2013. The fiscal impact to the program calls into question the program's ability to meet expenses, particularly staff payroll, with the adjusted 2012 rates at the level of staff required to be able to serve the number of individuals in the program today. It appears DHS had ample notice of the need for cost containment but did not choose to partner with the entities that provide case management to discuss the realities of the amendments.

Establishing a rate methodology for FY 2014 by using a mixed formula from FY 2012 and FY 2013 is not acceptable or a fair way to determine the payment structure from which a program can operate.

In 2012, TCM agencies were billing a unit of service using a 1- to 15-minute contact as one billable unit. Agencies had discretion as to whether they billed for paperwork or not, and due to this agencies across the state were able to choose their practices. As a result, the option impacted an agency's units and rates. If an agency billed for paperwork, it provided more units, and its rate was lowered by volume. If an agency did not bill for paperwork, it provided fewer units, and the rate was higher. In both scenarios, the expenses to operate the program would be the same; what the agencies chose to bill impacted the units and the rates, not an increase in expenses.

In 2013, TCM agencies are billing a unit of service by utilizing a rounding rule in which a case manager could bill only contacts that exceeded 8 minutes as one unit. Any contacts under 8 minutes are not billable. Some agencies expected to lose over 150 units per month that were billable in the 2012 methodology because the contact is less than 7 minutes.

For FY 2014, the amendments change the methodology once again. The state is directing the agencies to use the 2012 rate, plus an inflation factor, and utilize rounding rules. One provider of case management services stated that this method will go well beyond cost containment; it could result in a reduction in the agency's capacity to serve.

The FY 2014 methodology's impact on one of the respondents is that the unit rate will reduce from \$76.15 to \$57.63, a loss of -\$18.62 per unit. If the respondent serves an average of 1712 units per month, monthly revenue reduction will be -\$31,877. Annualized, one program will have a loss of -\$382,529.28. The state has said that units cannot be increased to offset cuts. In this scenario, the cuts will force a reduction of 11 staff and 275 individuals receiving intellectual disabilities case management that cannot be absorbed by remaining staff at the quality expected by the standards for targeted case management set forth in Iowa Administrative Code, 441—Chapters 24 and 90.

It is critical that this rate methodology be reconsidered using definitions that applied to the fiscal year identified as the rate on which to base the cost containment. It is also essential that DHS join with case management providers in creating a solution that is realistic to implement without financially closing programs.

Department response: The Department's responses to these concerns are as follows:

1. The initial strategy to cost-settle at FY 2012 rates with a 4.7 percent inflation factor is not the strategy currently in the amendments. Based upon feedback and further review of legislation, the Department developed an alternative proposal to the 4.7 percent strategy. The amendments contained in **ARCs 0839C** and **0840C** reflect a different implementation strategy than what is mentioned in this comment.

2. The Department well understands the issues related to the short time span from announcement of the implementation strategy to the implementation date. The timing of the notification to trading partners was driven by the date the legislation was signed, which was in June. Until such time as legislation is signed, the Department can begin to devise implementation strategies but cannot communicate that information.

3. Because 2013 Iowa Acts, Senate File 446, required a cost savings in FY 2014, which began July 1, 2013, immediate changes were needed in order to realize the required savings in the fiscal year. To delay implementation of a strategy would cause the savings to not be realized.

4. As described above in the response to Comment 1, a workgroup with case management providers has been convened to develop future rate methodologies.

Comment 3: The third respondent echoed concerns of the other respondents relating to the impact that the amendments will have on targeted case management firms. The respondent also shared that costs for services in the area of case management continue to climb. The respondent expressed concern that case management agencies eventually may have no choice but to stop providing the service because of high loss in cost to the program and expressed uncertainty regarding who will provide case management to the individuals that will be affected.

Department response: The initial strategy to cost-settle at FY 2012 rates with a 4.7 percent inflation factor is not the strategy currently in the amendments. Based upon feedback and further review of legislation, the Department developed an alternative proposal to the 4.7 percent strategy. The amendments contained in **ARCs 0839C** and **0840C** reflect a different implementation strategy than what is mentioned in this comment.

Each Iowa Medicaid provider must determine whether or not Medicaid reimbursement policies can allow that provider to continue to participate with Medicaid. The intention of the legislation was to rein in quickly growing reimbursement rates that are funded by taxpayer moneys. The Department is charged with using taxpayer moneys carefully and judiciously.

The revised implementation strategy does allow for cost settlement for FY 2014. The amendments allow for cost settlement while limiting administrative costs.

Initially, the IME calculated the increase in reimbursement upon the increase in provider rates over the last several years, which resulted in the 15.8 percent increase. Due to feedback from the provider community, the IME then settled upon using the “per member per month” (PMPM) calculation. This calculation used the PMPM for each member for case management and targeted case management as an aggregate and was not based on individual provider information. The calculation determined the increase for FY 2010 was 10 percent and the increase for FY 2013 was 14 percent (through May 2013).

As described above in the response to Comment 1, a workgroup with case management providers has been convened to develop future rate methodologies.

Comment 4: The fourth respondent stated that IME staff would like the case management methodology to be similar to how the waiver calculates indirect costs, but the respondent pointed out that case management is not like any waiver service. Targeted case managers are not allowed to provide direct service, which is an integral component of other Medicaid-funded services, so the activities that make up the direct costs are different from other waiver services. Unlike other community-based services such as supported community living, case management is mainly an office job—case management has become so paperwork-intensive that case managers spend 84 percent of their time in an office completing paperwork. Case management duties include making numerous telephone calls for referral, monitoring and follow up; completing substantial documents (social history, 35-page assessment, and care plan) which have to be copied and mailed to all interdisciplinary team members; data entry in the State ISIS system; and documenting all this activity. This rule making, as written, limits other costs to certain lines on the cost report. Telephone costs, office supplies, computers/management information systems, and the like were not included in other costs but targeted case management duties require all of those items. Some agencies have implemented efficiencies by hiring clerical staff to complete the ISIS data entry, but clerical staff are also not considered other costs. In order to come closer to the 23 percent limit, agencies could lower caseloads and hire more case managers to perform required duties that clerical staff are currently performing. The respondent

recommended that the following lines be included as other costs rather than indirect administrative costs: professional staff-direct salaries, other-direct salaries, clerical staff-direct salaries, benefits, and payroll taxes associated with direct salaries from those three lines; office supplies; telephone and Internet; postage and shipping; occupancy expense; mileage and automobile rental; agency vehicle expense; automobile insurance; and other related transportation.

The respondent also suggested changing the term “indirect administrative costs” to “administrative costs.” It has been very confusing to the accountants completing the cost report to use the term “indirect” to refer to any costs that are directly attributed to the case management program. “Indirect” has always referred to costs that are allocated across all programs.

Department response: Each service under Medicaid, including targeted case management, has unique features and purposes. Each service has unique tasks to be performed and unique goals. But all other Medicaid services are bound by rate limits or a set payable fee, neither of which exist for targeted case management. The legislation has charged the IME as follows: “The department shall develop a new reimbursement methodology for medical assistance targeted case management that applies appropriate cost limits.” 2013 Iowa Acts, Senate File 446, also directed the Department to establish emergency rules to effectuate those cost limits. The short time frame in which to determine and effectuate these rules is why the Department also immediately indicated that a workgroup would be convened to formulate a sustainable plan for the future.

The IME will take all suggestions to the workgroup that has been established and began meeting in September 2013. As described above in the response to Comment 1, a workgroup with case management providers has been convened to develop future rate methodologies.

Pursuant to past legislation, the IME has been working to formulate a uniform cost report to be used for all services requiring a cost report. This uniform cost report will utilize commonly accepted cost reporting terms.

These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

The Council on Human Services adopted these amendments on September 11, 2013.

These amendments do not provide for waiver in specified situations because requests for waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments will become effective November 6, 2013, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend paragraph **79.1(1)“d”** as follows:

d. Fee for service with cost settlement. Providers of case management services shall be reimbursed on the basis of a payment rate for a 15-minute unit of service based on reasonable and proper costs for service provision. The fee will be determined by the department with advice and consultation from the appropriate professional group and will reflect the amount of resources involved in service provision.

(1) Providers are reimbursed throughout each fiscal year on the basis of a projected unit rate for each participating provider. The projected rate is based on reasonable and proper costs of operation, pursuant to federally accepted reimbursement principles (generally Medicare or OMB A-87 principles).

(2) Payments are subject to annual retrospective cost settlement based on submission of actual costs of operation and service utilization data by the provider on Form 470-0664, Financial and Statistical Report. The cost settlement represents the difference between the amount received by the provider during the year for covered services and the amount supported by the actual costs of doing business, determined in accordance with an accepted method of cost appointment.

(3) The methodology for determining the reasonable and proper cost for service provision assumes the following:

1. The indirect administrative costs shall be limited to ~~20~~ 23 percent of other costs. Other costs include: professional staff – direct salaries, other – direct salaries, benefits and payroll taxes associated

with direct salaries, mileage and automobile rental, agency vehicle expense, automobile insurance, and other related transportation.

2. Mileage shall be reimbursed at a rate no greater than the state employee rate.
3. The rates a provider may charge are subject to limits established at 79.1(2).
4. Costs of operation shall include only those costs that pertain to the provision of services which are authorized under rule 441—90.3(249A).

ITEM 2. Amend subrule **79.1(2)**, provider category “HCBS waiver services,” paragraph “17,” as follows:

Provider category	Basis of reimbursement	Upper limit
17. Case management	Fee schedule for service with cost settlement. See 79.1(1) “d.”	For brain injury waiver and <u>elderly waivers</u> : Retrospective cost-settled rate. For elderly waiver : Quarterly revision of reimbursement rate as necessary to maintain projected expenditures within the amounts budgeted under the appropriations made for the medical assistance program for the fiscal year.

[Filed 9/11/13, effective 11/6/13]

[Published 10/2/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/2/13.